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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,346	12/20/2001	John Emmanuel M.D. Markis	B-38	8346
21253	7590	09/08/2006	EXAMINER	
CHARLES G. CALL 68 HORSE POND ROAD WEST YARMOUTH, MA 02673-2516			GLASS, RUSSELL S	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/034,346	Applicant(s) MARKIS ET AL.	
	Examiner Russell S. Glass	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

This communication is in response to the amendment filed June 19, 2006.

Claims 18-28 are newly added. Claims 1-17 were cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gombrich, (U.S. 4,916,441), and further in view of Gershman et al., (U.S. 6,401,085).

2. As per claim 18, Gombrich discloses the method of gathering, processing and displaying data describing patients in a health care facility which comprises, in combination, the steps of:

employing a database server for storing information describing each of said patients, said database server comprising storage facilities for storing the most recently measured numerical values for each of said patient's vital signs including the most

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recently measured blood pressure, respiration rate and pulse rate for each of said patients, and further comprising a program for exchanging information with an interface program executing on a remotely located bedside data collection computer, (Gombrich, col. 4, lines 45-60; col. 9, lines 15-17; col. 10, lines 57-63) (Vital sign data is considered to include specific patient's blood pressure, temperature, respiration rate and pulse rate),

employing said server to respond to a request received from said interface to return an updated interface to said data collection computer which displays one of said most recently measured values for a designated one of said patients, (Gombrich, col. 10, lines 16-63), and

employing said interface to thereafter respond to an input from the operator of said data collection computer by submitting a command to said database server to increment or decrement said one of said most recently measured values as displayed, (Gombrich, col. 8, lines 19-50; col. 10, lines 16-63)(entering vital sign data and instructions via an interface is considered to be equivalent to incrementing and decrementing because the entered numerical data would likely have a value higher or lower than existing numerical data), and

employing said database server to respond to said command by altering said one of said most recently measured values as displayed, (Gombrich, col. 8, lines 19-50; col. 10, lines 16-63)(entering the latest vital sign data and instructions via an interface is considered to be equivalent to altering).

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Gombrich fails to disclose using modern internet protocol technology, including web servers, web browsers, and web pages. However, incorporating such technology into a health care setting would have been well known to one of ordinary skill in the art at the time of the invention as evidenced by Gershman, (Gershman, Abstract, Figs. 20-23; col. 3, lines 14-28; col. 68, line 44-col. 70, line 18).

It would have been obvious to one of ordinary skill in the art to combine Gombrich and Gershman. The motivation would have been to integrate a wireless biomedical sensor to allow remote monitoring of patients, (Gershman, col. 68, line 44-col. 70, line 18).

3. As per claim 19, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 18 wherein said data collection comprises a portable, hand-held computer, (Gombrich, col. 4, lines 29-60).

The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

4. As per claim 20, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 19 wherein said portable hand-held computer includes a touch screen for displaying said interface and wherein said input from the operator is supplied to said interface using said touch screen, (Gombrich, col. 8, lines 51-60).

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The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

5. As per claim 21, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 20 wherein said portable hand-held computer communicates with said server via a wireless data link, (Gombrich, col. 5, line 43).

The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

6. As per claim 22, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 21 wherein said portable hand-held computer further includes a barcode scanner for accepting barcode information identifying said designated one of said patients, (Gombrich, col. 6, lines 23-30).

The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

7. As per claim 23, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 20 wherein said data collection computer includes a microphone and a voice recognition system for accepting spoken comments from an operator in response to visible or audio prompts produced by said data collection computer to produce said input from the operator, (Gombrich, col. 10, lines 28-34).

The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

8. As per claim 24, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 23 further including the steps of employing said microphone to accept spoken comments from said operator and for transmitting said comments as an audio file to said database server for storage with other information describing said designated one of said patients, (Gombrich, col. 9, lines 20-29).

The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

9. As per claim 25, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 19 wherein said portable hand-held computer wherein said input from the operator is supplied by spoken commands from said operator captured by a microphone included in said hand-held computer, (Gombrich, col. 10, lines 28-34).

The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

10. As per claim 26, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 18 further including the step of employing said server to transmit selected data stored by said database server regarding said

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designated patient as one or more displays in response to a request from said operator, (Gombrich, col. 10, lines 16-63).

The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

11. As per claim 27, Gombrich discloses the method of gathering, processing and displaying data as set forth in claim 18 wherein said data collection computer is a personal computer located at the bedside of said designated one of said patients, (Gombrich, col. 9, lines 15-17).

The statement of obviousness and motivation to combine Gombrich and Gershman is as provided in claim 18 and incorporated herein by reference.

12. As per claim 28, Gombrich discloses the method for collecting and displaying data describing the vital signs of each patient in a health care facility comprising, in combination, the steps of:

employing database server for storing numerical data specifying the last measured value for each of a plurality of vital sign quantities including a specific patient's blood pressure, temperature, respiration rate and pulse rate, (Gombrich, col. 10, lines 57-63) (Vital sign data is considered to include specific patient's blood pressure, temperature, respiration rate and pulse rate),

providing a health care delivery person with a hand-held portable computer device including a processor for executing an interface program, a communications

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interface for establishing a connection to said database server, and a touch screen for displaying web pages transmitted from said database server and for transmitting data to said database server in response to the manipulation of data controls displayed on said web pages by said health care delivery person, (Gombrich, col. 11, lines 40-59).

employing a log-in procedure executed by said hand-held computer to obtain the identification of said health care delivery person and submitting said identification to said database server from said hand-held portable computer, (Gombrich, col. 10, lines 34-53),

employing said hand-held computer to accept the designation of a particular one of said patients and submitting said designation to said database server from said database server, (Gombrich, col. 11, lines 40-59),

employing said hand-held computer to request a specified one of said last measured values for said particular one of said patients, (Gombrich, col. 11, lines 40-59),

employing said database server to transmit a display to said hand-held computer for displaying said specified one of said last measured values, (Gombrich, col. 11, lines 16-38), and

accepting a command from said health care delivery person using said interface to increment or decrement said specified one of said last measured values as stored by said database server, (Gombrich, col. 8, lines 19-50; col. 10, lines 16-63).

Gombrich fails to disclose using modern internet protocol technology, including web servers, web browsers, and web pages. However, incorporating such technology

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into a health care setting would have been well known to one of ordinary skill in the art at the time of the invention as evidenced by Gershman, (Gershman, Abstract, Figs. 20-23; col. 3, lines 14-28; col. 68, line 44-col. 70, line 18).

It would have been obvious to one of ordinary skill in the art to combine Gombrich and Gershman. The motivation would have been to integrate a wireless biomedical sensor to allow remote monitoring of patients, (Gershman, col. 68, line 44-col. 70, line 18).

Response to Arguments

Applicant's arguments with respect to claims 18-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows: Margrey et al., (U.S. 5,631,844).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RSG
8/31/2006



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